

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 556 be amended to read as follows:

- 1 Page 22, between lines 31 and 32, begin a new paragraph and insert:
2 "SECTION 16. IC 6-8.1-3-7.1, AS ADDED BY P.L.178-2002,
3 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2003]: Sec. 7.1. (a) "Fiscal officer" has the meaning set forth
5 in IC 36-1-2-7.
6 (b) The department shall enter into an agreement with the fiscal
7 officer of an entity that has adopted an innkeeper's tax, a food and
8 beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal
9 officer annually with:
10 (1) the name of each business collecting the taxes listed in this
11 subsection; and
12 (2) the amount of money collected from each business.
13 (c) The agreement must provide that the department must provide
14 the information in an electronic format that the fiscal officer can use,
15 as well as a paper copy.
16 (d) The agreement must include a provision that, unless in
17 accordance with a judicial order, the fiscal officer, employees of the
18 fiscal officer, former employees of the fiscal officer, counsel of the
19 fiscal officer, agents of the fiscal officer, or any other person may not
20 divulge the names of the businesses, the amount of taxes paid by the
21 businesses, or any other information disclosed to the fiscal officer by
22 the department. **However, the agreement may include a provision**
23 **that, in the course of a collection action brought by the county**
24 **treasurer or the department, the names of businesses and the**

amount of the taxes paid by the businesses may be disclosed to the county's convention and visitor's bureau.

SECTION 17. IC 6-8.1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The department may audit any returns filed in respect to the listed taxes, may appraise property if the property's value relates to the administration or enforcement of the listed taxes, may audit gasoline distributors for financial responsibility, and may investigate any matters relating to the listed taxes.

(b) For purposes of conducting its audit or investigative functions, the department may:

- (1) subpoena the production of evidence;
- (2) subpoena witnesses; and
- (3) question witnesses under oath.

The department may serve its subpoenas or it may order the sheriff of the county in which the witness or evidence is located to serve the subpoenas.

(c) The department may enforce its audit and investigatory powers by petitioning for a court order in any court of competent jurisdiction located in the county where the tax is due or in the county in which the evidence or witness is located. If the evidence or witness is not located in Indiana or if the department does not know the location of the evidence or witness, the department may file the petition in a court of competent jurisdiction in Marion County. The petition to the court must state the evidence or testimony subpoenaed and must allege that the subpoena was served but that the person did not comply with the terms of that subpoena.

(d) Upon receiving a proper petition under subsection (c), the court shall promptly issue an order which:

- (1) sets a hearing on the petition on a date not more than ten (10) days after the date of the order; and
- (2) orders the person to appear at the hearing prepared to produce the subpoenaed evidence and give the subpoenaed testimony.

If the defendant is unable to show good cause for not producing the evidence or giving the testimony, the court shall order the defendant to comply with the subpoena.

(e) If the defendant fails to obey the court order, the court may punish ~~him~~ **the defendant** for contempt.

(f) Officers serving subpoenas or court orders and witnesses appearing in court are entitled to the normal compensation provided by law in civil cases. The department shall pay the compensation costs from the money appropriated for the administration of the listed taxes.

(g) County treasurers investigating tax matters under IC 6-9 have:

- (1) concurrent jurisdiction with the department;**
- (2) the audit, investigatory, appraisal, and enforcement**

- 1 **powers described in this section; and**
- 2 **(3) authority to recover court costs, fees, and other expenses**
- 3 **related to an audit, investigatory, appraisal, or enforcement**
- 4 **action under this section."**

5 Renumber all SECTIONS consecutively.
(Reference is to ESB 556 as printed April 1, 2003.)

Representative Crawford